

ASSEMBLY BILL

No. 1381

Introduced by Committee on Public Employees, Retirement and Social Security (Bonta (Chair), Jones-Sawyer, Mullin, Rendon, and Wieckowski)

February 26, 2013

An act to amend Sections 22115, 22119.2, 22134.5, 22135, 22148, 22327, 22664, 22826, 22901, 22901.3, 22905, 22909, 23855, 24202, 24202.5, 24202.6, 24202.7, 24203, 24205, 24206, 24209, 24210, 24214, 24214.5, 24600, 26139, 26503.5, 26504, 26800, 26810, 26812, and 26813 of, to add Sections 22109.8, 22160.5, 24252, 26132.5, 26135.5, 26135.7, and 26139.5 to, and to repeal and add Section 22119.3 of, the Education Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1381, as introduced, Committee on Public Employees, Retirement and Social Security. State Teacher's Retirement Law: pension reform.

Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Defined Benefit Supplement Program, which provides supplemental retirement, disability, and other benefits, payable either in a lump-sum payment, an annuity, or both to members of the State Teachers' Retirement Plan. Existing law establishes a program commonly referred to as the Replacement Benefits Program to provide benefit payments to members of STRS whose benefits exceed specified

federal limits. Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

The California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified. Among other things, PEPRA requires a public retirement system to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan may not exceed for new employees. PEPRA prohibits offering supplemental defined benefit plans for new employees. PEPRA defines pensionable compensation for the purposes of its provisions and requires new employees of specified public employers who participate in a defined benefit plan to have an initial contribution rate of at least 50% of the normal cost rate for that defined benefit plan, rounded to the nearest $\frac{1}{4}$ of 1%, or the current contribution rate of similarly situated employees, whichever is greater. PEPRA generally prohibits a retired person who retires from a public employer from serving, being employed by, or being employed through a contract directly by, a public employer in the same retirement system from which the retiree receives a pension benefit without reinstatement, subject to certain exceptions and limitations. The act prohibits reemployment of a retiree pursuant to these provisions for a period of 180 days following the date of retirement unless he or she falls within certain exceptions to the prohibition.

This bill would make various changes in the Teachers' Retirement Law to conform with the provisions of PEPRA. The bill would revise the definition of creditable compensation and salary, and specify exclusions from the definition of creditable compensation and salary, for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would revise provisions prescribing the amounts that members are required to contribute to the retirement fund for the Defined Benefit Program, and that participants in the Cash Balance Benefit Program contribute, to reflect the requirements of PEPRA. The bill would provide, consistent with provisions of PEPRA, that the normal retirement age is 62 years of age for a new member of, or a participant in, these systems, with respect to various provisions of the programs, including those related to survivors'

benefits, retirement for service following reinstatement, and performance of post-retirement service. The bill would add new limitations on compensation that may be paid to a member of the Defined Benefit Program or a participant in the Cash Balance Benefit Program performing post-retirement activities, as defined. The bill would prohibit application of the Replacement Benefits Program to employees subject to PEPR. The bill would define a participant in the Cash Balance Benefit Program who is subject to PEPR to account for concurrent membership in that program and other public retirement systems. The bill would prescribe new requirements applicable to participants in the Cash Balance Benefit Program who perform retired participant activities, including requirements imposed on governing bodies seeking to employ these participants. The bill would make additional conforming and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22109.8 is added to the Education Code,
2 to read:
3 22109.8. "California Public Employees' Pension Reform Act
4 of 2013" means the California Public Employees' Pension Reform
5 Act of 2013 (Article 4 (commencing with Section 7522) of Chapter
6 21 of Division 7 of Title 1 of the Government Code).
7 SEC. 2. Section 22115 of the Education Code is amended to
8 read:
9 22115. (a) "Compensation earnable" means the creditable
10 compensation a person could earn in a school year for creditable
11 service performed on a full-time basis, excluding service for which
12 contributions are credited by the system to the Defined Benefit
13 Supplement Program.
14 (b) The board may determine compensation earnable for persons
15 employed on a part-time basis.
16 (c) If service credit for a school year is less than 1.000,
17 compensation earnable shall be the quotient obtained when
18 creditable compensation paid in that year is divided by the service
19 credit for that year, except as provided in subdivision (d).
20 (d) If a member earns creditable compensation at multiple pay
21 rates during a school year and service credit at the highest pay rate

1 is at least 0.900 of a year, compensation earnable shall be
2 determined as if all service credit for that year had been earned at
3 the highest pay rate. This subdivision shall be applicable only for
4 purposes of determining final compensation. If a member earns
5 creditable compensation at multiple pay rates during a school year
6 and service credit at the highest pay rate is less than 0.900 of a
7 year, compensation earnable shall be determined pursuant to
8 subdivision (c).

9 (e) (1) ~~For~~ *Except as provided in subdivision (g), for* purposes
10 of determining compensation earnable for a member employed by
11 a community college prior to July 1, 1996, full time shall be defined
12 pursuant to Section 22138.5 and pursuant to Section 20521 of Title
13 5 of the California Code of Regulations, as those provisions read
14 on June 30, 1996, if application of that definition will increase the
15 compensation earnable or otherwise enhance the benefits of the
16 member.

17 (2) For purposes of administering this subdivision, the board
18 shall have the authority to do both of the following:

19 (A) Establish and implement factors and assumptions necessary
20 to calculate and compare the benefits payable under the definition
21 of compensation earnable described in this subdivision. Those
22 factors and assumptions may be based on information reported by
23 the employer, including, but not limited to, all of the following:

24 (i) Base hours.

25 (ii) Actual earnings.

26 (iii) Compensation earnable.

27 (B) Review member benefit calculations that were performed
28 using the factors and assumptions described in subparagraph (A).
29 If the board determines that an employer failed to identify part-time
30 service performed, the board shall consider that part-time service
31 to be performed in a part-time lecture assignment as defined by
32 the employer. If the board determines by the review of the member
33 benefit calculations that the required information reported by the
34 employer is inaccurate, incomplete, or the factors and assumptions
35 were applied incorrectly, the board may recalculate member
36 benefits using additional factors and assumptions that may include,
37 but are not limited to, all of the following:

38 (i) Base hours.

39 (ii) Actual earnings.

40 (iii) Compensation earnable.

(3) This subdivision shall apply to a member employed by a community college prior to July 1, 1996, if the community college subsequently acts to reduce the minimum standard for full time as described in subdivision (c) of Section 22138.5 for the class of employees, and that community college provides written notice to the system of the act of the community college to reduce that minimum standard.

(4) This subdivision shall not apply to a member employed by a community college that has not reduced the minimum standard as described in subdivision (c) of Section 22138.5.

(f) Subdivision (e) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 3. Section 22119.2 of the Education Code is amended to read:

22119.2. (a) "Creditable compensation" means remuneration that is ~~payable~~ *paid* in cash by an employer to all persons in the same class of employees and is paid to an employee for performing creditable service *in that position*. Creditable compensation shall include:

(1) Salary *or wages* paid in accordance with a salary schedule ~~or~~, employment agreement, *or any other publicly available written contractual agreement that specifies compensation*.

(2) Remuneration that is paid in addition to salary *or wages*, provided it is ~~payable~~ *paid* to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary *or wages*, or the same percentage of the amount being distributed.

(3) Remuneration that is paid for the use of sick leave, vacation, and other employer-approved leave, except as provided in paragraph (4) of subdivision (c).

(4) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts that are deducted from a member's ~~compensation~~ *salary or wages*, including, but not limited to, ~~salary~~ deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), ~~or~~ 403(b), 457(b), *or 457(f)* of Title 26 of the United States Code.

(6) Any other payments the board determines to be “creditable compensation.”

(b) Any creditable compensation determined by the board to have been paid for the principal purpose of enhancing to enhance a member’s benefits under the plan shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the board that creditable compensation was paid for the principal purpose of enhancing the member’s benefits under the plan to enhance a member’s benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the board that creditable compensation was paid for the principal purpose of enhancing to enhance the member’s benefits under the plan may be reversed.

(c) “Creditable compensation” does not mean and shall not include:

(1) Remuneration that is not payable paid in cash or is not payable paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5.

(3) Remuneration that is paid in addition to salary or wages if it is not payable paid to all persons in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid in exchange for the forfeiture of unused accumulated leave.

(5) Annuity contracts, tax-deferred retirement plans, or insurance programs and contributions to plans that meet the requirements of Section 125, 401(a), 401(k), or 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member’s salary.

(6) Fringe benefits provided by an employer.

(7) Job-related expenses Expenses paid or reimbursed by an employer.

(8) Severance pay or compensatory damages or money paid to a member in excess of salary pay, including lump-sum and installment payments, or money paid in excess of salary or wages

1 *to a member as compensatory damages or as a compromise*
2 *settlement.*

3 (9) Any other payments the board determines not to be
4 “creditable compensation.”

5 (d) An employer or individual who knowingly or willfully
6 reports compensation in a manner inconsistent with subdivision
7 (a) or (c) may be subject to prosecution for fraud, theft, or
8 embezzlement in accordance with the Penal Code. The system
9 may establish procedures to ensure that compensation reported by
10 an employer is in compliance with this section.

11 (e) For purposes of this section, remuneration shall be considered
12 ~~payable~~ *paid* if it would be ~~paid~~ *distributed* to any person *in the*
13 *same class of employees* who meets the qualifications or
14 requirements specified in a collective bargaining agreement ~~or, an~~
15 ~~employment agreement, or any other publicly available written~~
16 ~~contractual agreement that specified compensation~~ as a condition
17 of receiving the remuneration.

18 (f) This definition of “creditable compensation” reflects sound
19 principles that support the integrity of the retirement fund. Those
20 principles include, but are not limited to, consistent treatment of
21 compensation throughout a member’s career, consistent treatment
22 of compensation among an entire class of employees, *consistent*
23 *treatment of compensation for a position*, preventing adverse
24 selection, and excluding from compensation earnable remuneration
25 that is paid ~~for the principal purpose of enhancing to enhance~~ a
26 member’s benefits ~~under the plan~~. The board shall determine the
27 appropriate crediting of contributions between the Defined Benefit
28 Program and the Defined Benefit Supplement Program according
29 to these principles, to the extent not otherwise specified pursuant
30 to this part.

31 (g) The section shall become operative on July 1, 2002, if the
32 revenue limit cost-of-living adjustment computed by the
33 Superintendent of Public Instruction for the 2001–02 fiscal year
34 is equal to or greater than 3.5 percent. Otherwise this section shall
35 become operative on July 1, 2003.

36 (h) *This section shall not apply to a member subject to the*
37 *California Public Employees’ Pension Reform Act of 2013.*

38 SEC. 4. Section 22119.3 of the Education Code is repealed.

39 ~~22119.3. (a) “Creditable compensation” for members who are~~
40 ~~subject to the California Public Employees’ Pension Reform Act~~

1 of 2013 (~~Article 4 (commencing with Section 7522) of Chapter~~
2 ~~21 of Division 7 of Title 1 of the Government Code~~) shall not mean
3 and shall not include any compensation that is excluded from the
4 definition of pensionable compensation pursuant to Section 7522.34
5 of the Government Code.

6 ~~(b) Creditable compensation credited to the Defined Benefit~~
7 ~~Plan shall be consistent with requirements for pensionable~~
8 ~~compensation pursuant to Section 7522.34 of the Government~~
9 ~~Code.~~

10 ~~(c) Notwithstanding subdivision (a), member and employer~~
11 ~~contributions, exclusive of contributions pursuant to Section 22951,~~
12 ~~on creditable compensation for creditable service that exceeds one~~
13 ~~year in a school year shall be credited to the Defined Benefit~~
14 ~~Supplement Program.~~

15 SEC. 5. Section 22119.3 is added to the Education Code, to
16 read:

17 22119.3. (a) “Creditable compensation” for members who are
18 subject to the California Public Employees’ Pension Reform Act
19 of 2013 means regular, recurring remuneration that is paid in cash
20 by an employer to all persons in the same class of employees in
21 accordance with a salary schedule, employment agreement, or any
22 other publicly available written contractual agreement that specifies
23 compensation and is paid to an employee for performing creditable
24 service in that position. Creditable compensation shall include:

25 (1) Remuneration that is paid for the use of sick leave, vacation,
26 and other employer-approved leave, except as provided in
27 paragraph (4) of subdivision (b).

28 (2) Member contributions that are picked up by an employer
29 pursuant to Section 22903 or 22904.

30 (3) Amounts that are deducted from a member’s salary or wages,
31 including, but not limited to, deductions for participation in a
32 deferred compensation plan; deductions to purchase an annuity
33 contract, tax-deferred retirement plan, or insurance program; and
34 contributions to a plan that meets the requirements of Section 125,
35 401(a), 401(k), 403(b), 457(b) or 457(f) of Title 26 of the United
36 States Code.

37 (4) Notwithstanding paragraph (11) of subdivision (b),
38 remuneration that is paid to achieve compensation parity between
39 part-time and full-time faculty of California community colleges
40 for similar work, as funded pursuant to the Budget Act.

1 (5) Notwithstanding paragraph (11) of subdivision (b),
2 remuneration that is paid based on the allocation of funds from
3 the California State Lottery Education Fund pursuant to Section
4 8880.5 of the Government Code.

5 (6) Notwithstanding paragraph (11) of subdivision (b),
6 remuneration that is paid when the number of students in the
7 classroom exceeds the contractual amount.

8 (7) Notwithstanding paragraphs (6) and (8) of subdivision (c)
9 of Section 7522.34 of the Government Code, remuneration that is
10 paid for creditable service that exceeds one year in a school year.

11 (b) "Creditable compensation" does not mean and shall not
12 include:

13 (1) Remuneration that is not paid in cash or is not paid to all
14 persons who are in the same class of employees.

15 (2) Remuneration that is paid for service that is not creditable
16 service pursuant to Section 22119.5.

17 (3) Remuneration that is paid in addition to salary or wages.

18 (4) Remuneration that is paid in exchange for the forfeiture of
19 unused accumulated leave.

20 (5) Annuity contracts, tax-deferred retirement plans, or insurance
21 programs and contributions to plans that meet the requirements of
22 Section 125, 401(a), 401(k), 403(b), 457(b) or 457(f) of Title 26
23 of the United States Code when the cost is covered by an employer.

24 (6) Fringe benefits provided by an employer.

25 (7) Expenses paid or reimbursed by an employer.

26 (8) Severance pay, including lump-sum and installment
27 payments, or money paid in excess of salary or wages to a member
28 as compensatory damages or as a compromise settlement.

29 (9) Creditable compensation determined by the board to have
30 been paid to enhance a member's benefit.

31 (10) Compensation paid to the member in lieu of benefits
32 provided to the member by the employer or paid directly by the
33 employer to a third party other than the retirement system for the
34 benefit of the member.

35 (11) Any one-time or ad hoc payments made to a member.

36 (12) Any employer-provided allowance, reimbursement, or
37 payment, including, but not limited to, one made for housing,
38 vehicle, or uniform.

39 (13) Any bonus paid in addition to compensation described in
40 subdivision (a).

1 (14) Any other payments the board determines not to be
2 “creditable compensation.”

3 (c) (1) Except for purposes of calculating credited service in
4 the Defined Benefit Program and for reporting compensation
5 earnable on or after January 1, 2013, creditable compensation in
6 any fiscal year shall not exceed 120 percent of the “contribution
7 and benefit base,” as determined under Section 430(b) of the Social
8 Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013.

9 (2) The board shall adjust the limit in paragraph (1) based on
10 changes to the Consumer Price Index for All Urban Consumers.
11 Notwithstanding paragraph (1) of subdivision (d) of Section
12 7522.10 of the Government Code, the adjustment shall be effective
13 annually on July 1, beginning July 1, 2014.

14 (3) The Legislature reserves the right to modify the requirements
15 of this subdivision with regard to all members subject to this
16 subdivision, except that the Legislature may not modify these
17 provisions in a manner that would result in a decrease in benefits
18 accrued prior to the effective date of the modification.

19 (4) This subdivision shall apply to compensation paid during
20 the 2013-14 fiscal year and each fiscal year thereafter.

21 (d) An employer or individual who knowingly or willfully
22 reports compensation in a manner inconsistent with subdivision
23 (a) or (b) may be subject to prosecution for fraud, theft, or
24 embezzlement in accordance with the Penal Code. The system
25 may establish procedures to ensure that compensation reported by
26 an employer is in compliance with this section.

27 (e) For purposes of this section, remuneration shall be considered
28 paid if it would be distributed to any person in the same class of
29 employees who meets the qualifications or requirements specified
30 in a collective bargaining agreement, an employment agreement,
31 or any other publicly available written contractual agreement that
32 specifies compensation as a condition of receiving the
33 remuneration.

34 (f) This definition of “creditable compensation” reflects sound
35 principles that support the integrity of the retirement fund. Those
36 principles include, but are not limited to, consistent treatment of
37 compensation throughout a member’s career, consistent treatment
38 of compensation among an entire class of employees, consistent
39 treatment of compensation for the position, preventing adverse
40 selection, and excluding from creditable compensation

1 remuneration that is paid to enhance a member's benefits. The
2 board shall determine the appropriate crediting of contributions
3 according to these principles, to the extent not otherwise specified
4 pursuant to this part. A presumption by the board that creditable
5 compensation was paid to enhance the member's benefits may be
6 rebutted by the member or by the employer on behalf of the
7 member. Upon receipt of sufficient evidence to the contrary, a
8 presumption by the board that creditable compensation was paid
9 to enhance the member's benefits may be reversed.

10 SEC. 6. Section 22134.5 of the Education Code is amended to
11 read:

12 22134.5. (a) Notwithstanding Section 22134, "final
13 compensation" means the highest average annual compensation
14 earnable by a member during any period of 12 consecutive months
15 while an active member of the Defined Benefit Program or time
16 during which he or she was not a member but for which the
17 member has received credit under the Defined Benefit Program,
18 except time that was so credited for service performed outside this
19 state prior to July 1, 1944.

20 (b) For purposes of this section, periods of service separated by
21 breaks in service may be aggregated to constitute a period of 12
22 consecutive months, if the periods of service are consecutive except
23 for the breaks.

24 (c) The determination of final compensation of a member who
25 has concurrent membership in any other retirement system pursuant
26 to Section 22115.2 shall take into consideration the compensation
27 earnable while a member of any other system, provided that both
28 of the following exist:

29 (1) Service under any other system was not performed during
30 the same pay period with service under the Defined Benefit
31 Program.

32 (2) Retirement under the Defined Benefit Program is concurrent
33 with the member's retirement under any other system.

34 (d) If a member has received service credit for part-time service
35 performed prior to July 1, 1956, the member's final compensation
36 shall be adjusted for that service in excess of one year by the ratio
37 that part-time service bears to full-time service.

38 (e) The board may specify a different final compensation with
39 respect to disability allowances, disability retirement allowances,
40 family allowances, and children's portions of survivor benefit

allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(f) This section shall apply to the following:

(1) A member who has 25 or more years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

~~(B) Section 22714.5.~~

~~(C)~~

(B) Section 22715.

~~(D)~~

(C) Section 22717, except as provided in subdivision (b) of Section 22121.

~~(E)~~

(D) Section 22826.

(2) A nonmember spouse, if the member had 25 or more years of credited service, as calculated in paragraph (1), on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

(3) *This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.*

SEC. 7. Section 22135 of the Education Code is amended to read:

22135. (a) Notwithstanding subdivisions (a) and (b) of Section 22134, "final compensation" means the highest average annual compensation earnable by an active member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the plan's Defined Benefit Program.

(b) Section 22134, except subdivision (a) of that section, shall apply to classroom teachers who retire after June 30, 1990, and any statutory reference to Section 22134 or "final compensation" with respect to a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

(c) As used in this section, "classroom teacher" means any of the following:

(1) All teachers and substitute teachers in positions requiring certification qualifications who spend, during the last 10 years of their employment with the same employer which immediately

1 precedes their retirement, 60 percent or more of their contract time
2 each year providing direct instruction. For the purpose of
3 determining continuity of employment within the meaning of this
4 subdivision, an authorized leave of absence for sabbatical or illness
5 or other collectively bargained or employer-approved leaves shall
6 not constitute a break in service.

7 (2) Other certificated personnel who spend, during the last 10
8 years of their employment with the same employer that
9 immediately precedes their retirement, 60 percent or more of their
10 contract time each year providing direct services to pupils,
11 including, but not limited to, librarians, counselors, nurses, speech
12 therapists, resource specialists, audiologists, audiometrists,
13 hygienists, optometrists, psychologists, driver safety instructors,
14 and personnel on special assignment to perform school attendance
15 and adjustment services.

16 (d) As used in this section, “classroom teacher” does not include
17 any of the following:

18 (1) Certificated employees whose job descriptions require an
19 administrative credential.

20 (2) Certificated employees whose job descriptions include
21 responsibility for supervision of certificated staff.

22 (3) Certificated employees who serve as advisers, coordinators,
23 consultants, or developers or planners of curricula, instructional
24 materials, or programs, who spend, during the last 10 years of their
25 employment with the same employer that immediately precedes
26 their retirement, less than 60 percent of their contract time in direct
27 instruction.

28 (4) Certificated employees whose job descriptions require
29 provision of direct instruction or services, but who are functioning
30 in nonteaching assignments.

31 (5) Classified employees.

32 (e) This section shall apply only to teachers employed by an
33 employer that has, pursuant to Chapter 10.7 (commencing with
34 Section 3540) of Division 4 of Title 1 of the Government Code,
35 entered into a written agreement with an exclusive representative,
36 that makes this section applicable to all of its classroom teachers,
37 as defined in subdivision (c).

38 (f) The written agreement shall include a mechanism to pay for
39 all increases in allowances provided for by this section through
40 employer contributions or employee contributions or both, which

1 shall be collected and retained by the employer in a trust fund to
2 be used solely and exclusively to pay the system for all increases
3 in allowances provided by this section and related administrative
4 costs; and a mechanism for disposition of the employee's
5 contributions if employment is terminated before retirement, and
6 for the establishment of a trust fund board. The trust fund board
7 shall administer the trust fund and shall be composed of an equal
8 number of members representing classroom teachers chosen by
9 the bargaining agent and the employer. If the employer agrees to
10 pay the total cost of increases in allowances, the establishment of
11 a trust fund and a trust fund board shall be optional to the employer.
12 The employer, within 30 days of receiving an invoice from the
13 system, shall reimburse the retirement fund the amount determined
14 by the Teachers' Retirement Board to be the actuarial equivalent
15 of the difference between the allowance the member or beneficiary
16 receives pursuant to this section and the allowance the member or
17 beneficiary would have received if the member's final
18 compensation had been computed under Section 22134 and the
19 proportionate share of the cost to the plan's Defined Benefit
20 Program, as determined by the Teachers' Retirement Board, of
21 administering this section. The payment shall include the cost of
22 all increases in allowances provided for by this section for all years
23 of service credited to the member as of the benefit effective date.
24 Interest shall be charged at the regular interest rate for any payment
25 not received within 30 days of receipt of the invoice. Payments
26 not received within 30 days after receipt of the invoice may be
27 collected pursuant to Section 23007.

28 (g) Upon the execution of the agreement, the employer shall
29 notify all certificated employees of the agreement and any
30 certificated employee of the employer, who is a member of the
31 Public Employees' Retirement System pursuant to Section 22508,
32 that he or she may, within 60 days following the date of
33 notification, elect to terminate his or her membership in the Public
34 Employees' Retirement System and become a member of this
35 plan's Defined Benefit Program. However, only service credited
36 under the Defined Benefit Program subsequent to the date of that
37 election shall be subject to this section.

38 (h) An employer that agrees to become subject to this section,
39 shall, on a form and within the timeframes prescribed by the
40 system, certify the applicability of this section to a member

1 pursuant to the criteria set forth in this section when a retirement,
2 disability, or family allowance becomes payable.

3 (i) For a nonmember spouse, final compensation shall be
4 determined pursuant to paragraph (2) of subdivision (c) of Section
5 22664. The employer, within 30 days of receiving an invoice from
6 the system, shall reimburse the retirement fund pursuant to
7 subdivision (f). Interest shall be charged at the regular interest rate
8 for payments not received within the prescribed timeframe.
9 Payments not received within 30 days of invoicing may be
10 collected pursuant to Section 23007.

11 (j) *This section shall not apply to a member subject to the*
12 *California Public Employees' Pension Reform Act of 2013.*

13 SEC. 8. Section 22148 of the Education Code is amended to
14 read:

15 22148. "Normal retirement" and "normal retirement age" mean
16 ~~the age of 60 years of age, or 62 years of age for a member subject~~
17 ~~to the California Public Employees' Pension Reform Act of 2013,~~
18 which is the age upon attainment of which the member becomes
19 eligible under the Defined Benefit Program for a service retirement
20 allowance without reduction because of age and without special
21 qualifications.

22 SEC. 9. Section 22160.5 is added to the Education Code, to
23 read:

24 22160.5. "Public employer" means a public employer as
25 defined in subdivision (i) of Section 7522.04 of the Government
26 Code.

27 SEC. 10. Section 22327 of the Education Code is amended to
28 read:

29 22327. Notwithstanding any other provision of law, the
30 Employment Development Department shall disclose to the board
31 information in its possession relating to the earnings of any person
32 ~~who is receiving a disability benefit under a member of the Defined~~
33 ~~Benefit Program. The earnings information shall be released to~~
34 ~~the board only upon written request from the board specifying that~~
35 ~~the person is receiving disability benefits under a member of the~~
36 ~~Defined Benefit Program. The request may be made by the chief~~
37 ~~executive officer of the system or by an employee of the system~~
38 ~~so authorized and identified by name and title by the chief~~
39 ~~executive officer in writing. The board shall notify recipients of~~
40 ~~disability benefits members~~ that earnings information shall be

1 obtained from the Employment Development Department upon
2 request by the board. The board shall not release any earnings
3 information received from the Employment Development
4 Department to any person, agency, or other entity. The system
5 shall reimburse the Employment Development Department for all
6 reasonable administrative expenses incurred pursuant to this
7 section.

8 SEC. 11. Section 22664 of the Education Code is amended to
9 read:

10 22664. The nonmember spouse who is awarded a separate
11 account shall have the right to a service retirement allowance and,
12 if applicable, a retirement benefit under this part.

13 (a) The nonmember spouse shall be eligible to retire for service
14 under this part if the following conditions are satisfied:

15 (1) The member had at least five years of credited service during
16 the period of marriage, at least one year of which had been
17 performed subsequent to the most recent refund to the member of
18 accumulated retirement contributions. The credited service may
19 include service credited to the account of the member as of the
20 date of the dissolution or legal separation, previously refunded
21 service, out-of-state service, and permissive service credit that the
22 member is eligible to purchase at the time of the dissolution or
23 legal separation.

24 (2) The nonmember spouse has at least 2½ years of credited
25 service in his or her separate account.

26 (3) The nonmember spouse has attained 55 years of age or more.

27 (b) A service retirement allowance of a nonmember spouse
28 under this part shall become effective upon a date designated by
29 the nonmember spouse, provided:

30 (1) The requirements of subdivision (a) are satisfied.

31 (2) The nonmember spouse has filed an application for service
32 retirement on a properly executed form provided by the system,
33 that is executed no earlier than six months before the effective date
34 of the retirement allowance.

35 (3) The effective date is no earlier than the first day of the month
36 that the application is received at the system's headquarters office
37 as described in Section 22375, and the effective date is after the
38 date the judgment or court order pursuant to Section 22652 was
39 entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60¼	2.033
60½	2.067
60¾	2.10
61	2.133
61¼	2.167
61½	2.20
61¾	2.233
62	2.267
62¼	2.30
62½	2.333
62¾	2.367
63 and over	2.40

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month that the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22134.5, 22135, or 22136, whichever is applicable, and shall be based on the member's compensation earnable up to the date the parties separated, as

1 established in the judgment or court order pursuant to Section
2 22652. The nonmember spouse shall not be entitled to use any
3 other calculation of final compensation.

4 (d) Upon service retirement under this part, the nonmember
5 spouse shall receive a retirement benefit based on an amount equal
6 to the balance of credits in the nonmember spouse's Defined
7 Benefit Supplement account on the date the retirement benefit
8 becomes payable.

9 (1) A retirement benefit shall be a lump-sum payment, or an
10 annuity payable in monthly installments, or a combination of both
11 a lump-sum payment and an annuity, as elected by the nonmember
12 spouse on the application for a retirement benefit. A retirement
13 benefit paid as an annuity under this chapter shall be subject to
14 Sections 22660, 25011, and 25011.1.

15 (2) Upon distribution of the entire retirement benefit in a
16 lump-sum payment, no other benefit shall be payable to the
17 nonmember spouse or the nonmember spouse's beneficiary under
18 the Defined Benefit Supplement Program.

19 (e) If the member is or was receiving a disability allowance
20 under this part with an effective date before or on the date the
21 parties separated as established in the judgment or court order
22 pursuant to Section 22652, or at any time applies for and receives
23 a disability allowance with an effective date that is before or
24 coincides with the date the parties separated as established in the
25 judgment or court order pursuant to Section 22652, the nonmember
26 spouse shall not be eligible to retire until after the disability
27 allowance of the member terminates. If the member who is or was
28 receiving a disability allowance returns to employment to perform
29 creditable service subject to coverage under the Defined Benefit
30 Program or has his or her allowance terminated under Section
31 24015, the nonmember spouse may not be paid a retirement
32 allowance until at least six months after termination of the disability
33 allowance and the return of the member to employment to perform
34 creditable service subject to coverage under the Defined Benefit
35 Program, or the termination of the disability allowance and the
36 employment or self-employment of the member in any capacity,
37 notwithstanding Section 22132. If at the end of the six-month
38 period, the member has not had a recurrence of the original
39 disability or has not had his or her earnings fall below the amounts

described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(f) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24412 and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

(g) Paragraphs (1) through (3), inclusive, of subdivision (c) shall not apply to a nonmember spouse of a member subject to the California Public Employees' Pension Reform Act of 2013. For a person who is a nonmember spouse of a member subject to the California Public Employees' Pension Reform Act of 2013 and is awarded a separate account, the retirement allowance shall equal the percentage of final compensation for each year of credited service that is equal to the percentage specified in Section 24202.6 based on the age of the nonmember spouse on the effective date of the allowance.

SEC. 12. Section 22826 of the Education Code is amended to read:

1 22826. (a) A member, other than a retired member, may
2 request to purchase up to five years of nonqualified service credit
3 provided the member is vested in the Defined Benefit Program as
4 provided in Section 22156.

5 (b) A member who requests to purchase nonqualified service
6 credit as provided in this chapter shall contribute to the retirement
7 fund the actuarial cost of the service, including interest as
8 appropriate, as determined by the board based on the most recent
9 valuation of the plan with respect to the Defined Benefit Program
10 in effect on the date of the request, in accordance with subdivisions
11 (a), (f), (g), and (h) of Section 22801.

12 (c) *This section shall apply only to an application to purchase*
13 *nonqualified service credit on a properly executed form provided*
14 *by the system and received at the system's headquarters office, as*
15 *established pursuant to Section 22375, prior to January 1, 2013,*
16 *that is subsequently approved by the system.*

17 SEC. 13. Section 22901 of the Education Code is amended to
18 read:

19 22901. (a) Each member of the Defined Benefit Program shall
20 contribute to the retirement fund an amount equivalent to 8 percent
21 of the member's creditable compensation, *unless he or she is a*
22 *member subject to the California Public Employees' Pension*
23 *Reform Act of 2013.*

24 (b) *Each member subject to the California Public Employees'*
25 *Pension Reform Act of 2013 shall contribute to the retirement fund*
26 *an amount equivalent to the percentage of the member's creditable*
27 *compensation calculated as follows:*

28 (1) *An initial percentage equal to 50 percent of the normal cost*
29 *rate of benefits applicable to members subject to the California*
30 *Public Employees' Pension Reform Act of 2013, rounded to the*
31 *nearest quarter of 1 percent.*

32 (2) *Notwithstanding paragraph (1), once established, the*
33 *percentage described in paragraph (1) shall not be adjusted on*
34 *account of a change to the normal cost rate unless the normal cost*
35 *rate increases or decreases by more than 1 percent of payroll*
36 *above or below the normal cost rate in effect at the time the*
37 *percentage is first established or, if later, the normal cost rate in*
38 *effect at the time of the last adjustment.*

39 ~~(b)~~

1 (c) Notwithstanding Section 22905, any member contributions
2 for service performed during the 2010–11 school year with a
3 service period ending after December 31, 2010, shall be credited
4 pursuant to subdivision (a).

5 SEC. 14. Section 22901.3 of the Education Code is amended
6 to read:

7 22901.3. (a) Notwithstanding Section 22901, the normal rate
8 of contribution for a “state employee,” as defined in subdivision
9 (c) of Section 3513 of the Government Code, who is a member of
10 the Defined Benefit Program, may be established by a
11 memorandum of understanding reached pursuant to Section 3517.5
12 of the Government Code. The memorandum of understanding shall
13 be controlling without further legislative action, except that if the
14 provisions of the memorandum of understanding require the
15 expenditure of funds, the provisions may not become effective
16 unless approved by the Legislature in the annual Budget Act.

17 (b) ~~The~~ *Except as provided in subdivision (c)*, Director of
18 Human Resources may establish the normal rate of contribution
19 for a state employee who is a member of the Defined Benefit
20 Program who is excepted from the definition of “state employee”
21 in subdivision (c) of Section 3513 of the Government Code, and
22 an officer or employee of the executive branch of state government
23 who is not a member of the civil service. The normal rate of
24 contribution shall be the same for all members identified in this
25 subdivision. The contribution rate shall be effective the beginning
26 of the pay period indicated by the Director of Human Resources
27 but shall be no earlier than the beginning of the pay period
28 following the date the board receives notification.

29 (c) *The normal contribution rate for members subject to the*
30 *California Public Employees’ Pension Reform Act of 2013 who*
31 *are state employees is subject to the provisions of subdivision (e)*
32 *of Section 7522.30 of the Government Code.*

33 SEC. 15. Section 22905 of the Education Code is amended to
34 read:

35 22905. (a) Member contributions pursuant to Section 22901,
36 employer contributions pursuant to Section 22903 or 22904, and
37 member contributions made by an employer pursuant to Section
38 22909 shall be credited to the member’s individual account under
39 the Defined Benefit Program or the Defined Benefit Supplement

1 Program, whichever is applicable pursuant to the provisions of
2 this part.

3 (b) ~~Member~~ *Except as provided in subdivision (f), member* and
4 employer contributions, exclusive of contributions pursuant to
5 Section 22951, on a member's compensation under the following
6 circumstances shall be credited to the member's Defined Benefit
7 Supplement account:

8 (1) Compensation for creditable service that exceeds one year
9 in a school year.

10 (2) Compensation that is consistent with subdivision (b) of
11 Section 22119.2.

12 (3) Compensation that is ~~payable~~ *paid* for a specified number
13 of times as limited by law, a collective bargaining agreement, or
14 an employment agreement.

15 (c) A member may not make voluntary pretax or posttax
16 contributions under the Defined Benefit Supplement Program,
17 except as provided in subdivision (d), nor may a member redeposit
18 amounts previously distributed based on the balance in the
19 member's Defined Benefit Supplement account.

20 (d) Member and employer contributions pursuant to paragraph
21 (1) of subdivision (b) under the Defined Benefit Supplement
22 Program shall be credited to the accounts of members as of July
23 1 each year following a determination by the system under the
24 provisions of this part that those contributions should be credited
25 to the Defined Benefit Supplement Program. Any other
26 contributions under the Defined Benefit Supplement Program
27 pursuant to paragraph (2) or (3) of subdivision (b), shall be credited
28 to the individual account of the member upon receipt by the system.
29 Contributions to a member's Defined Benefit Supplement account
30 shall be identified separately from the member's contributions
31 credited under the Defined Benefit Program.

32 (e) The provisions of this section shall become operative on
33 July 1, 2002, if the revenue limit cost-of-living adjustment
34 computed by the Superintendent of Public Instruction for the
35 2001–02 fiscal year is equal to or greater than 3.5 percent.
36 Otherwise this section shall become operative on July 1, 2003.

37 (f) *Paragraphs (2) and (3) of subdivision (b) shall not apply to*
38 *a member subject to the California Public Employees' Pension*
39 *Reform Act of 2013.*

1 SEC. 16. Section 22909 of the Education Code is amended to
2 read:

3 22909. (a) Notwithstanding Sections 22901, 22956, and 23000,
4 an employer may pay all or a portion of the contributions required
5 to be paid by a member of the Defined Benefit Program. Where
6 the member is included in a group or class of employment, the
7 payment shall be for all members in the group or class of
8 employment. The payments shall be credited to member accounts
9 pursuant to Section 22905. The employer shall report contributions
10 to the system as if the member and the employer were paying the
11 contributions in accordance with this part, notwithstanding this
12 section. For purposes of this chapter, the member's contributions
13 shall be considered to be the percentage of the member's creditable
14 compensation that would have been paid pursuant to this chapter,
15 notwithstanding this section. Notwithstanding Section 22119.2,
16 contributions paid pursuant to this section may not be included in
17 creditable compensation.

18 (b) Nothing in this section shall be construed to limit the
19 authority of an employer to periodically increase, reduce, or
20 eliminate the payment by the employer of all or a portion of the
21 contributions required to be paid by members of the Defined
22 Benefit Program, as authorized by this section.

23 (c) This section shall only apply to an employer that is picking
24 up members' contributions pursuant to Section 22903 or 22904.

25 (d) *This section shall not apply to a member subject to the*
26 *California Public Employees' Pension Reform Act of 2013.*

27 SEC. 17. Section 23855 of the Education Code is amended to
28 read:

29 23855. (a) The survivor benefit allowance is a monthly
30 allowance equal to one-half of the modified retirement allowance
31 the member would have received at ~~60 years of normal retirement~~
32 age, if the member had retired and elected Option 3 pursuant to
33 Section 24300, as that section read on December 31, 2006, naming
34 the spouse as the option beneficiary.

35 (b) The allowance payable under this subdivision shall be based
36 on the member's actual service credit and final compensation as
37 of the date of his or her death, the retirement factor at ~~60 years of~~
38 *normal retirement* age, and the member's and spouse's ages as of
39 the date the member would have attained ~~60 years of normal~~
40 *retirement* age. If the member's death occurs after he or she attains

1 ~~60 years of normal retirement~~ age, his or her actual final
2 compensation, the retirement factor at ~~60 years of normal~~
3 ~~retirement~~ age, and the member's and spouse's ages as of the date
4 of the member's death shall be used in the allowance calculation.

5 (c) The allowance calculation shall include service credit for
6 the unused sick leave that had accrued to the member as of the
7 date of his or her death. Eligibility for the inclusion of unused sick
8 leave service credit and the calculation of that service credit shall
9 be determined pursuant to Section 22717.

10 (d) (1) The allowance calculation shall not include either of the
11 following:

12 (A) The increase in the percentage of final compensation
13 pursuant to Section 24203.5.

14 (B) The increase of the monthly allowance pursuant to Section
15 24203.6.

16 (2) The amendments to this section made by the act adding this
17 paragraph do not constitute a change in, but are declaratory of,
18 existing law.

19 (e) The surviving spouse may elect to begin receiving the
20 survivor benefit allowance immediately as of the date of the
21 member's death or to defer receipt of the allowance to the date the
22 member would have attained ~~60 years of normal retirement~~ age.
23 If allowance payments to the surviving spouse commence prior to
24 the date the member would have attained ~~60 years of normal~~
25 ~~retirement~~ age, the allowance payable shall be actuarially reduced.

26 (f) If the spouse elects, pursuant to Section 23852, to receive
27 the survivor benefit allowance, an additional 10 percent of final
28 compensation shall be payable for each dependent child who is
29 under 21 years of age, up to a maximum of 50 percent of final
30 compensation. The child's portion shall begin to accrue on the day
31 following the member's date of death and shall be payable even
32 if the spouse elects to postpone receipt of the spouse's survivor
33 benefit allowance until the date the member would have attained
34 ~~60 years of normal retirement~~ age.

35 (g) If there is no surviving spouse, an allowance in an amount
36 equal to 10 percent of the deceased member's final compensation
37 shall be paid to each dependent child who is under 21 years of age,
38 up to a maximum of 50 percent of final compensation. If there are
39 more than five dependent children, they shall receive allowances
40 in equal shares of the 50 percent of final compensation. A child's

portion of the survivor benefit allowance shall begin to accrue on the day following the member's date of death.

SEC. 18. Section 24202 of the Education Code is amended to read:

24202. (a) A member who retires for service after June 30, 1972, shall receive a retirement allowance consisting of both of the following:

(1) An annual allowance payable in monthly installments, upon retirement at normal retirement age but less than age $60\frac{1}{4}$, equal to 2 percent of the final compensation for each year of credited service. If the member's retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member's allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account at the time of retirement.

(b) In computing the amounts described in subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or such later date as provided in Section 24204 shall be used.

(c) The amendments to this section during the 1997–98 Regular Session of the Legislature shall not apply to state employees.

(d) *This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.*

SEC. 19. Section 24202.5 of the Education Code is amended to read:

24202.5. (a) A member who retires for service on or after January 1, 1999, shall receive a retirement allowance consisting of all of the following:

(1) An annual allowance payable in monthly installments, upon retirement equal to the percentage of the final compensation set forth opposite the member's age at retirement in the following table multiplied by each year of credited service:

Age at Retirement	Percentage
60	2.00
$60\frac{1}{4}$	2.033
$60\frac{1}{2}$	2.067

1	60¾	2.10
2	61	2.133
3	61¼	2.167
4	61½	2.20
5	61¾	2.233
6	62	2.267
7	62¼	2.30
8	62½	2.333
9	62¾	2.367
10	63 and over	2.40

11
 12 If the member's retirement is effective at less than normal
 13 retirement age and between early retirement age and normal
 14 retirement age, the member's allowance shall be reduced by
 15 one-half of 1 percent for each full month, or fraction of a month
 16 that will elapse until the member will attain normal retirement age.

17 (2) An annuity that shall be the actuarial equivalent of the
 18 member's accumulated annuity deposit contributions at the time
 19 of retirement.

20 (3) An annuity based on the balance of credits in the member's
 21 Defined Benefit Supplement account, pursuant to Section 25012,
 22 if elected by the member pursuant to Section 25011 or 25011.1.

23 (b) In computing the amounts described in paragraph (1) of
 24 subdivision (a), the age of the member on the last day of the month
 25 in which the retirement allowance begins to accrue or the later
 26 date as described in Section 24204 shall be used.

27 (c) *This section shall not apply to a member subject to the*
 28 *California Public Employees' Pension Reform Act of 2013.*

29 SEC. 20. Section 24202.6 of the Education Code is amended
 30 to read:

31 24202.6. (a) A member who is ~~first hired on or after January~~
 32 ~~1, 2013~~ *subject to the California Public Employees' Pension*
 33 *Reform Act of 2013*, shall receive a retirement allowance consisting
 34 of all of the following:

35 (1) ~~(A)~~—An annual allowance payable in monthly installments
 36 upon retirement equal to the percentage of the final compensation
 37 set forth opposite the member's age at retirement in the following
 38 table multiplied by each year of credited service:

39
 40

Age at Retirement	Percentage
-------------------	------------

1	62.....	2.000
2	62 ¼.....	2.033
3	62 ½.....	2.067
4	62 ¾.....	2.100
5	63.....	2.133
6	63 ¼.....	2.167
7	63 ½.....	2.200
8	63 ¾.....	2.233
9	64.....	2.267
10	64 ¼.....	2.300
11	64 ½.....	2.333
12	64 ¾.....	2.367
13	65.....	2.400

14
15 (B)

16 (2) If a member retires after attaining early retirement age but
17 before attaining normal retirement age, the member's allowance
18 shall be reduced by one-half of 1 percent for each full month, or
19 fraction of a month, that will elapse until the member will attain
20 normal retirement age.

21 ~~(2) An annuity that shall be the actuarial equivalent of the~~
22 ~~member's accumulated annuity deposit contributions at the time~~
23 ~~of retirement.~~

24 ~~(3) An annuity based on the balance of credits in the member's~~
25 ~~Defined Benefit Supplement account, pursuant to Section 25012,~~
26 ~~if elected by the member pursuant to Section 25011 or 25011.1.~~

27 (b) In computing the amounts described in paragraph (1) of
28 subdivision (a), the age of the member on the last day of the month
29 in which the retirement allowance begins to be payable or the later
30 date as described in Section 24204 shall be used.

31 (c) ~~Pensionable-Creditable~~ compensation used to calculate the
32 defined benefit shall be limited as described in Section ~~7522.10~~
33 ~~of the Government Code 22119.3.~~

34 SEC. 21. Section 24202.7 of the Education Code is amended
35 to read:

36 24202.7. Notwithstanding any other provision of this part, for
37 ~~any member who is first hired on or after January 1, 2013~~ *a member*
38 *subject to the California Public Employees' Pension Reform Act*
39 *of 2013*, the minimum retirement age shall be 55 years of age, the

1 early retirement age shall be 55 years of age, and the normal
2 retirement age shall be 62 years of age.

3 SEC. 22. Section 24203 of the Education Code is amended to
4 read:

5 24203. (a) A member who has 30 years of credited service
6 under this part may retire at age 50 years or older and receive an
7 annual allowance equal to 2 percent of final compensation for each
8 year of credited service. If the member has attained age 50 years,
9 but has not attained early retirement age, the allowance shall be
10 reduced by one-quarter of 1 percent for each full month or fraction
11 of a month that will elapse until the member will attain early
12 retirement age and one-half of 1 percent for each full month, or
13 fraction of a month between early retirement age and normal
14 retirement age.

15 (b) In computing the amounts described in subdivision (a), the
16 age of the member on the last day of the month in which the
17 retirement allowance begins to accrue or any later date provided
18 in Section 24204 shall be used.

19 (c) *This section shall not apply to a member subject to the*
20 *California Public Employees' Pension Reform Act of 2013.*

21 SEC. 23. Section 24205 of the Education Code is amended to
22 read:

23 24205. A member retiring prior to 60 years of age, and who
24 has attained 55 years of age, may elect to receive one-half of the
25 service retirement allowance for normal retirement age for a limited
26 time and then revert to the full retirement allowance for normal
27 retirement age.

28 (a) The retirement allowance shall be based on service credit
29 and final compensation as of the date of retirement for service and
30 shall be calculated with the factor for normal retirement age.

31 (b) If the member elects a joint and survivor option under
32 Section 24300 or 24300.1, the actuarial reduction shall be based
33 on the member's and beneficiary's ages as of the effective date of
34 the early retirement. If the member elected a preretirement option
35 under Section 24307, the actuarial reduction shall be based on the
36 member's and beneficiary's ages as determined by the provisions
37 of that section.

38 (c) One-half of the retirement allowance as of 60 years of age
39 shall be paid for a period of time equal to twice the elapsed time

1 between the effective date of retirement and the date of the retired
2 member's 60th birthday.

3 (d) The full retirement allowance as calculated under subdivision
4 (a) or (b) shall begin to accrue as of the first of the month following
5 the reduction period as specified in subdivision (c). The full
6 retirement allowance shall not begin to accrue prior to this time
7 under any circumstances, including, but not limited to, divorce or
8 death of the named beneficiary.

9 (e) The annual improvement factor provided for in Sections
10 22140 and 22141 shall be based upon the retirement allowance as
11 calculated under subdivision (a) or (b). The improvement factor
12 shall begin to accrue on September 1 following the retired
13 member's 60th birthday. These increases shall be accumulated
14 and shall become payable when the full retirement allowance for
15 normal retirement age first becomes payable.

16 (f) Any ad hoc benefit increase with an effective date prior to
17 the retired member's 60th birthday shall not affect an allowance
18 payable under this section. Only those ad hoc improvements with
19 effective dates on or after the retired member's 60th birthday shall
20 be accrued and accumulated and shall first become payable when
21 the full retirement allowance for normal retirement age becomes
22 payable.

23 (g) The cancellation of an option election in accordance with
24 Section 24305 shall not cancel the election under this section.
25 Upon cancellation of the joint and survivor option, one-half of the
26 retired member's retirement allowance as calculated under
27 subdivision (a) shall become payable for the balance of the
28 reduction period specified in subdivision (c).

29 (h) If a retired member who has elected a joint and survivor
30 option dies during the period when the reduced allowance is
31 payable, the beneficiary shall receive one-half of the allowance
32 payable to the beneficiary until the date when the retired member
33 would have received the full retirement allowance for normal
34 retirement age. At that time, the beneficiary's allowance shall be
35 increased to the full amount payable to the beneficiary plus the
36 appropriate annual improvement factor increases and ad hoc
37 increases.

38 (i) This section shall not apply to a member who retires for
39 service pursuant to Section 24201.5, 24209, 24209.3, 24210,
40 24211, or 24212.

(j) *This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.*

SEC. 24. Section 24206 of the Education Code is amended to read:

24206. The minimum unmodified allowance for service retirement under the Defined Benefit Program, exclusive of annuities payable from accumulated annuity deposit contributions and exclusive of the balance of credits in the member's Defined Benefit Supplement account, shall not be less than ten dollars (\$10) per month multiplied by the member's years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited under the Defined Benefit Program. If the retirement is effective at less than ~~age 60 years~~ *normal retirement age* this allowance shall be reduced by one-half of 1 percent for each full month or fraction of a month that will elapse until the member would have reached ~~age 60 years~~ *normal retirement age*.

SEC. 25. Section 24209 of the Education Code is amended to read:

24209. (a) Upon retirement for service following reinstatement, the member shall receive a service retirement allowance equal to the sum of both of the following:

(1) An amount equal to the monthly allowance the member was ~~receiving~~ *eligible to receive* immediately preceding reinstatement, exclusive of any amounts payable pursuant to Section 22714, ~~22714.5~~, or 22715, increased by the improvement factor that would have been applied to the allowance if the member had not reinstated.

(2) An amount calculated pursuant to Section 24202, 24202.5, ~~24202.6~~ 24203, 24203.5, or 24206 on service credited subsequent to the most recent reinstatement, the member's age at retirement, and final compensation.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, ~~22714.5~~, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in paragraphs (1), for members who initially retired on or after January 1, 1999, and (2) of subdivision (a) shall be calculated pursuant to Section 24203.5.

(c) If the total amount of credited service, other than that accrued pursuant to Sections 22714, ~~22714.5~~, 22715, 22717, 22717.5, and

1 22826, is equal to or greater than 30 years, upon retirement for
2 service following reinstatement, a member who retired pursuant
3 to Section 24213, and received the terminated disability allowance
4 for the prior retirement, shall receive a service retirement allowance
5 equal to the sum of the following:

6 (1) An amount based on the service credit accrued prior to the
7 effective date of the disability allowance, the member's age at the
8 prior retirement increased by the factor provided in Section
9 24203.5, and projected final compensation.

10 (2) An amount calculated pursuant to Section 24202, 24202.5,
11 24202.6, 24203.5, or 24206 on service credited subsequent to the
12 reinstatement, the member's age at retirement, and final
13 compensation.

14 (d) For purposes of this section, final compensation shall not
15 be based on a determination of compensation earnable as described
16 in subdivision (e) of Section 22115.

17 SEC. 26. Section 24210 of the Education Code is amended to
18 read:

19 24210. Upon retirement for service following a prior disability
20 retirement granted pursuant to Chapter 26 (commencing with
21 Section 24100) that was terminated, the member shall receive a
22 service retirement allowance calculated pursuant to Section 24202,
23 24202.5, 24202.6, 24203, 24203.5, or 24206 and equal to the sum
24 of both of the following:

25 (a) An amount based on service credit accrued prior to the
26 effective date of the disability retirement, the member's age as of
27 the effective date of the service retirement, and indexed final
28 compensation to the effective date of the service retirement.

29 (b) An amount based on the service credit accrued after
30 termination of the disability retirement, the member's age as of
31 the effective date of service retirement, and final compensation.

32 SEC. 27. Section 24214 of the Education Code, as amended
33 by Section 6 of Chapter 296 of the Statutes of 2012, is amended
34 to read:

35 24214. (a) A member retired for service under this part may
36 perform retired member activities, but the member shall not make
37 contributions to the retirement fund or accrue service credit based
38 on compensation earned from that service. The employer shall
39 maintain accurate records of the earnings of the retired member

1 and report those earnings monthly to the system and retired member
2 as described in Section 22461.

3 (b) If a member is retired for service under this part, the rate of
4 pay for retired member activities, performed by that member shall
5 not be less than the minimum, nor exceed the maximum, paid by
6 the employer to other employees performing comparable duties.

7 (c) A member retired for service under this part shall not be
8 required to reinstate for performing retired member activities.

9 (d) A member retired for service under this part may earn
10 compensation for performing retired member activities in any one
11 school year up to the limitation specified in subdivision (f) without
12 a reduction in his or her retirement allowance.

13 (e) The postretirement compensation limitation provisions set
14 forth in this section are not applicable to compensation earned for
15 the performance of retired member activities for which the
16 employer is not eligible to receive state apportionment or to
17 compensation that is not creditable pursuant to Section 22119.2
18 or 22119.3.

19 (f) (1) The limitation that shall apply to the compensation *paid*
20 *in cash to the member* for performance of retired member activities,
21 *excluding reimbursements paid by an employer for expenses*
22 *incurred by the member, in which payment of the expenses by the*
23 *member is substantiated*, shall, in any one school year, be an
24 amount calculated by the board each July 1 equal to one-half of
25 the median final compensation of all members who retired for
26 service during the fiscal year ending in the previous calendar year.

27 (2) *The limitation in paragraph (1) shall also apply to annuity*
28 *contracts, tax-deferred retirement plans, or insurance programs*
29 *and contributions to plans that meet the requirements of Section*
30 *125, 401(a), 401(k), 403(b), 457(b) or 457(f) of Title 26 of the*
31 *United States Code when the cost is covered by an employer.*

32 (g) If a member retired for service under this part earns
33 compensation for performing retired member activities, in excess
34 of the limitation specified in subdivision (f), and if that
35 compensation is not exempt from that limitation under subdivision
36 (e) or (h) or any other law, the member's retirement allowance
37 shall be reduced by the amount of the excess compensation. The
38 amount of the reduction may be equal to the monthly allowance
39 payable but shall not exceed the amount of the annual allowance
40 payable under this part for the fiscal year in which the excess

1 compensation was earned after any reduction made in accordance
2 with subdivision ~~(b)~~ (h) of Section 24214.5.

3 (h) The limitation specified in this section is not applicable to
4 compensation paid to a member retired for service under this part
5 who has returned to work after the date of retirement as a trustee,
6 fiscal adviser, fiscal expert, receiver, or special trustee appointed
7 by the Superintendent of Public Instruction, the State Board of
8 Education, the Board of Governors of the California Community
9 Colleges, or a county superintendent of schools to address academic
10 or financial weaknesses in a school district pursuant to any of the
11 following provisions:

12 (1) Section 41320.1.

13 (2) Article 2 (commencing with Section 42122) of Chapter 6
14 of Part 24 of Division 3 of Title 2.

15 (3) Article 3.1 (commencing with Section 52055.57) of Chapter
16 6.1 of Part 28 of Division 4 of Title 2.

17 (4) Section 84040.

18 (i) The Superintendent of Public Instruction, the Executive
19 Director of the State Board of Education, the Chancellor of the
20 California Community Colleges, or the county superintendent of
21 schools exercising the exemption pursuant to subdivision (h) shall
22 submit all documentation required by the system to substantiate
23 the eligibility of the retired member for the exemption, including
24 compliance with subdivisions (j) and (k). The documentation shall
25 be received by the system prior to the retired member's
26 performance of retired member activities.

27 (j) Subdivision (h) shall not apply to a member who has not
28 attained normal retirement age at the time the compensation is
29 earned by the member, received additional service credit pursuant
30 to Section 22714 or 22715, or received from any public employer
31 any financial inducement to retire in the previous six months. For
32 purposes of this section and Section 24214.5, "financial inducement
33 to retire" includes, but is not limited to, any form of compensation
34 or other payment that is paid directly or indirectly by a public
35 employer to the member, even if not in cash, either before or after
36 retirement, if the member retires for service on or before a specific
37 date or specific range of dates established by the public employer
38 on or before the date the inducement is offered. The system shall
39 liberally interpret this subdivision to further the Legislature's intent
40 to make subdivision (h) inapplicable to members if the member

1 received a financial incentive from any public employer to retire
2 or otherwise terminate employment with the public employer.

3 (k) The documentation required for subdivision (i) shall include
4 certification of the following:

5 (1) The position was first advertised for appointment to current
6 active or inactive members of the program with the necessary
7 qualifications to perform the requirements of the position and no
8 qualified current active or inactive member was available to be
9 appointed.

10 (2) The appointing authority made a good faith effort to hire a
11 retired member who reinstated to active membership for the
12 position at the same salary that was offered as first advertised
13 pursuant to paragraph (1).

14 (3) The appointing authority, having tried and failed to hire a
15 current active or inactive member or a reinstated retired member,
16 hired a retired member and the salary offered to the retired member
17 subject to this paragraph does not exceed the salary that was offered
18 as first advertised pursuant to paragraph (1).

19 (4) The salary paid shall be no greater than the salary offered
20 to current active members for the appointed position.

21 (l) The amendments to this section enacted during the 1995–96
22 Regular Session shall be deemed to have become operative on July
23 1, 1996.

24 (m) This section shall apply to compensation paid during the
25 2012–13 and 2013–14 fiscal years.

26 (n) This section shall become inoperative on July 1, 2014, and,
27 as of January 1, 2015, is repealed, unless a later enacted statute,
28 that becomes operative on or before January 1, 2015, deletes or
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 28. Section 24214 of the Education Code, as amended
31 by Section 7 of Chapter 296 of the Statutes of 2012, is amended
32 to read:

33 24214. (a) A member retired for service under this part may
34 perform the activities identified in subdivision (a) or (b) of Section
35 22119.5, or subdivision (a) or (b) of Section 26113, as an employee
36 of an employer, as an employee of a third party, or as an
37 independent contractor within the California public school system
38 *retired member activities*, but the member shall not make
39 contributions to the retirement fund or accrue service credit based
40 on compensation earned from that service. The employer shall

1 maintain accurate records of the earnings of the retired member
2 and report those earnings monthly to the system and retired member
3 as described in Section 22461.

4 (b) If a member is retired for service under this part, the rate of
5 pay for ~~service~~ *retired member activities* performed by that member
6 as an employee of the employer, as an employee of a third party,
7 or as an independent contractor within the California public school
8 system shall not be less than the minimum, nor exceed ~~that the~~
9 *maximum* paid by the employer to other employees performing
10 comparable duties.

11 (c) A member retired for service under this part shall not be
12 required to reinstate for performing ~~the activities identified in~~
13 ~~subdivision (a) or (b) of Section 22119.5 as an employee of an~~
14 ~~employer, as an employee of a third party, or as an independent~~
15 ~~contractor within the California public school system~~ *retired*
16 *member activities*.

17 (d) A member retired for service under this part may earn
18 compensation for performing *retired member activities* ~~identified~~
19 ~~in subdivision (a) or (b) of Section 22119.5 in any one school year~~
20 ~~up to the limitation specified in subdivision (f) as an employee of~~
21 ~~an employer, as an employee of a third party, or as an independent~~
22 ~~contractor, within the California public school system, without a~~
23 ~~reduction in his or her retirement allowance.~~

24 (e) The postretirement compensation limitation provisions set
25 forth in this section are not applicable to compensation earned for
26 the performance of ~~the activities described in subdivision (a)~~ *retired*
27 *member activities* for which the employer is not eligible to receive
28 state apportionment or to compensation that is not creditable
29 pursuant to Section 22119.2 or 22119.3.

30 (f) (1) The limitation that shall apply to the compensation *paid*
31 *in cash* for performance of ~~the activities identified in subdivision~~
32 ~~(a) or (b) of Section 22119.5 by a member retired for service under~~
33 ~~this part either as an employee of an employer, an employee of a~~
34 ~~third party, or as an independent contractor~~ *retired member*
35 *activities, excluding reimbursements paid by an employer for*
36 *expenses incurred by the member, in which payment of the expenses*
37 *by the member is substantiated*, shall, in any one school year, be
38 an amount calculated by the board each July 1 equal to one-half
39 of the median final compensation of all members who retired for
40 service during the fiscal year ending in the previous calendar year.

(2) *The limitation in paragraph (1) shall also apply to annuity contracts, tax-deferred retirement plans, or insurance programs and contributions to plans that meet the requirements of Section 125, 401(a), 401(k), 403(b), 457(b) or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.*

(g) If a member retired for service under this part earns compensation for performing activities ~~identified in subdivision (a) or (b) of Section 22119.5~~ *retired member activities*, in excess of the limitation specified in subdivision (f), ~~as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system,~~ the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

~~(h) An employee of a third party shall not be subject to this section if he or she meets all of the following conditions:~~

~~(1) He or she performs a limited-term assignment.~~

~~(2) The third-party employer does not participate in a California public pension system.~~

~~(3) The activities performed by the individual are not normally performed by employees of the employer, as defined in Section 22131.~~

~~(i)~~

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

~~(j)~~

(i) This section shall become operative on July 1, 2014.

SEC. 29. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation *for performance of retired member activities* shall be zero dollars (\$0) ~~in either of the following circumstances:~~

1 ~~(1) During~~ *during* the first 180 *calendar* days after the most
2 recent retirement of a member retired for service under this part.

3 ~~(2) During the first six consecutive months after the most recent~~
4 ~~retirement if the member received additional service credit pursuant~~
5 ~~to Section 22714 or 22715 or received from any public employer~~
6 ~~any financial inducement to retire, as defined by subdivision (j)~~
7 ~~of Section 24214.~~

8 (b) If the member has attained normal retirement age at the time
9 the compensation is earned, subdivision (a) shall not apply and
10 Section 24214 shall apply if the appointment has been approved
11 by the governing body of the employer in a public meeting, as
12 reflected in a resolution adopted by the governing body of the
13 employer prior to the performance of retired member activities,
14 expressing its intent to seek an exemption from the limitation
15 specified in subdivision (a). Approval of the appointment may not
16 be placed on a consent calendar. Notwithstanding any other
17 provision of Article 3.5 (commencing with Section 6250) of
18 Division 7 of Title 1 of the Government Code or any state or
19 federal law incorporated by subdivision (k) of Section 6254 of the
20 Government Code, the resolution shall be subject to disclosure by
21 the entity adopting the resolution and the system. The resolution
22 shall include the following specific information and findings:

23 (1) The nature of the employment.

24 (2) A finding that the appointment is necessary to fill a critically
25 needed position before 180 days have passed.

26 (3) A finding that the member is not ineligible for application
27 of this subdivision pursuant to subdivision (d).

28 (4) A finding that the termination of employment of the retired
29 member with the employer is not the basis for the need to acquire
30 the services of the member.

31 (c) Subdivision (b) shall not apply to a retired member whose
32 termination of employment with the employer is the basis for the
33 need to acquire the services of the member.

34 (d) Subdivision (b) shall not apply if the member received
35 additional service credit pursuant to Section 22714 or 22715 or
36 received from any public employer any financial inducement to
37 retire. *For purposes of this section, "financial inducement to*
38 *retire" includes, but is not limited to, any form of compensation*
39 *or other payment that is paid directly or indirectly by a public*
40 *employer to the member, even if not in cash, either before or after*

1 retirement, if the participant retires for service on or before a
2 specific date or specific range of dates established by a public
3 employer on or before the date the inducement is offered. The
4 system shall liberally interpret this subdivision to further the
5 Legislature's intent to make subdivision (b) inapplicable to
6 members if the member received a financial incentive from any
7 public employer to retire or otherwise terminate employment with
8 a public employer.

9 (e) The Superintendent, the county superintendent of schools,
10 or the chief executive officer of a community college shall submit
11 all documentation required by the system to substantiate the
12 eligibility of the retired member for application of subdivision (b),
13 including, but not limited to, the resolution adopted pursuant to
14 that subdivision.

15 ~~(f) If a member will be receiving compensation for performance~~
16 ~~of retired member activities before 180 days after the most recent~~
17 ~~retirement, the Superintendent, the county superintendent of~~
18 ~~schools, or the chief executive officer of a community college shall~~
19 ~~submit all documentation required by the system that certifies that~~
20 ~~the member did not receive from any public employer any financial~~
21 ~~inducement to retire.~~

22 ~~(g)~~

23 (f) The documentation required by this section shall be received
24 by the system prior to the retired member's performance of retired
25 member activities.

26 ~~(h)~~

27 (g) Within 30 calendar days after the receipt of all
28 documentation required by the system pursuant to this section, the
29 system shall inform the entity seeking application of the exemption
30 specified in subdivision (b), ~~or seeking to employ a retired member~~
31 ~~pursuant to subdivision (f);~~ and the retired member whether the
32 compensation paid to the member will be subject to the limitation
33 specified in subdivision (a).

34 ~~(i)~~

35 (h) If a member retired for service under this part earns
36 compensation for performing retired member activities in excess
37 of the limitation specified in subdivision (a), the member's
38 retirement allowance shall be reduced by the amount of the excess
39 compensation. The amount of the reduction may be equal to the
40 monthly allowance payable but may not exceed the amount of the

1 allowance payable during the first 180 *calendar* days, ~~in accordance~~
2 ~~with subdivision (a)~~, after a member retired for service under this
3 part.

4 SEC. 30. Section 24252 is added to the Education Code, to
5 read:

6 24252. This chapter shall not apply to a member subject to the
7 California Public Employees' Pension Reform Act of 2013.

8 SEC. 31. Section 24600 of the Education Code is amended to
9 read:

10 24600. (a) A retirement allowance under this part begins to
11 accrue on the effective date of the member's retirement and ceases
12 on the earlier of the day of the member's death or the day on which
13 the retirement allowance is terminated for a reason other than the
14 member's death.

15 (b) A retirement allowance payable to an option beneficiary
16 under this part begins to accrue on the day following the day of
17 the retired member's death and ceases on the day of the option
18 beneficiary's death.

19 (c) A disability allowance under this part begins to accrue on
20 the effective date of the member's disability allowance and ceases
21 on the earlier of the day of the member's death or the day on which
22 the disability allowance is terminated for a reason other than the
23 member's death.

24 (d) A family allowance under this part begins to accrue on the
25 day following the day of the member's death and ceases on the
26 day of the event that terminates eligibility for the allowance.

27 (e) A survivor benefit allowance payable to a surviving spouse
28 under this part pursuant to Chapter 23 (commencing with Section
29 23850) begins to accrue on the day the member would have
30 attained ~~60 years of~~ *normal retirement* age or on the day following
31 the day of the member's death, as elected by the surviving spouse,
32 and ceases on the day of the surviving spouse's death.

33 (f) (1) Except as provided in paragraph (2), a child's portion
34 of an allowance under this part begins to accrue on the effective
35 date of that allowance and ceases on the earlier of either the
36 termination of the child's eligibility or the termination of the
37 allowance.

38 (2) A child's portion of a disability retirement allowance under
39 Chapter 26 (commencing with Section 24100) ceases on the earlier
40 of either:

1 (A) The termination date of the child's eligibility.

2 (B) The termination of the allowance for reasons other than
3 death.

4 (g) Supplemental payments issued under this part pursuant to
5 Sections 24412 and 24415 to retired members, disabled members,
6 and beneficiaries shall begin to accrue pursuant to Sections 24412
7 and 24415 and shall cease to accrue as of the termination dates
8 specified in subdivisions (a) to (f), inclusive, of this section.

9 (h) Notwithstanding any other provision of this part or other
10 law, distributions payable under the plan with respect to the
11 Defined Benefit Program and the Defined Benefit Supplement
12 Program shall be made in accordance with applicable provisions
13 of the Internal Revenue Code of 1986 and related regulations. The
14 required beginning date of benefit payments that represent the
15 entire interest of the member in the plan with respect to the Defined
16 Benefit Program and the Defined Benefit Supplement Program
17 shall be either:

18 (1) In the case of a refund of contributions, as described in
19 Chapter 18 (commencing with Section 23100) of this part and
20 distribution of an amount equal to the balance of credits in a
21 member's Defined Benefit Supplement account, as described in
22 Chapter 38 (commencing with Section 25000) of this part, not
23 later than April 1 of the calendar year following the later of (A)
24 the calendar year in which the member attains the age at which
25 the Internal Revenue Code of 1986 requires a distribution of
26 benefits or (B) the calendar year in which the member terminates
27 employment within the meaning of subdivision (i).

28 (2) In the case of a retirement allowance, as defined in Section
29 22166, not later than April 1 of the calendar year following the
30 later of (A) the calendar year in which the member attains the age
31 at which the Internal Revenue Code of 1986 requires a distribution
32 of benefits or (B) the calendar year in which the member terminates
33 employment within the meaning of subdivision (i), to continue
34 over the life of the member or the lives of the member and the
35 member's option beneficiary, or over the life expectancy of the
36 member or the life expectancy of the member and the member's
37 option beneficiary.

38 (i) For purposes of subdivision (h), the phrase "terminates
39 employment" means the later of:

1 (1) The date the member ceases to perform creditable service
2 subject to coverage under this plan.

3 (2) The date the member ceases employment in a position
4 subject to coverage under another public retirement system in this
5 state if the compensation earnable while a member of the other
6 system may be considered in the determination of final
7 compensation pursuant to Section 22134, 22135, or 22136.

8 SEC. 32. Section 26132.5 is added to the Education Code, to
9 read:

10 26132.5. (a) “Participant subject to the California Public
11 Employees’ Pension Reform Act of 2013” means, notwithstanding
12 subdivision (f) of Section 7522.04 of the Government Code, a
13 person who first becomes employed to perform creditable service
14 subject to coverage under the Cash Balance Benefit Program on
15 or after January 1, 2013.

16 (b) A participant as defined in subdivision (a) does not include
17 a person who was a member on or before December 31, 2012, of
18 the California Public Employees’ Retirement System, the
19 Legislators’ Retirement System, the University of California
20 Retirement System, county retirement systems established under
21 Chapter 3 (commencing with Section 31450) of Part 3 of Division
22 4 of Title 3 of the Government Code, or the San Francisco
23 Employees’ Retirement System, and the person performed service
24 in the other retirement system within the six months prior to the
25 commencement of creditable service under the Cash Balance
26 Benefit Program.

27 (c) Notwithstanding Section 7522.44 of the Government Code,
28 if a participant is not subject to the California Public Employees’
29 Pension Reform Act of 2013, creditable service performed on or
30 after January 1, 2013, shall be subject to the provisions of this part
31 in effect prior to January 1, 2013.

32 SEC. 33. Section 26135.5 is added to the Education Code, to
33 read:

34 26135.5. “Public employer” means a public employer as
35 defined by subdivision (i) of Section 7522.04 of the Government
36 Code.

37 SEC. 34. Section 26135.7 is added to the Education Code, to
38 read:

39 26135.7. (a) “Retired participant activities” means one or more
40 activities identified in subdivision (a) or (b) of Section 22119.5 or

1 (a) or (b) of Section 26113 within the California public school
2 system and performed by a participant retired for service under
3 this part as one of the following:

- 4 (1) An employee of an employer.
5 (2) An employee of a third party, except as specified in
6 subdivision (b).
7 (3) An independent contractor.

8 (b) The activities of an employee of a third party shall not be
9 included in the definition of “retired participant activities” if all
10 of the following conditions apply:

- 11 (1) The employee performs an assignment of 24 months or less.
12 (2) The third-party employer does not participate in a California
13 public pension system.
14 (3) The activities performed by the individual are not normally
15 performed by employees of an employer, as defined in Section
16 22131.

17 SEC. 35. Section 26139 of the Education Code is amended to
18 read:

19 26139. (a) “Salary” means remuneration ~~payable~~ *paid* in cash
20 by an employer to a participant for creditable service *performed*
21 *in that position* subject to coverage under the Cash Balance Benefit
22 Program. Salary shall include:

- 23 (1) Money paid in accordance with a salary schedule based on
24 years of training and years of experience as specified in Section
25 45028 for creditable service performed.
26 (2) For participants not paid according to a salary schedule,
27 money paid for creditable service performed.
28 (3) Money paid for the participant’s absence from performance
29 of creditable service as approved by an employer, except as
30 provided in paragraph (5) of subdivision (b).
31 (4) Employee contributions picked up by an employer under
32 Section 414(h)(2) of Title 26 of the United States Code and Section
33 17501 of the Revenue and Taxation Code.
34 (5) Amounts deducted by an employer from the participant’s
35 salary, including deductions for participation in a deferred
36 compensation plan; deductions for the purchase of annuity
37 contracts, tax-deferred retirement plans, or other insurance
38 programs; and deductions for participation in a plan that meets the
39 requirements of Section 125, *401(a)*, 401(k), ~~or~~ 403(b), *457(b)*, or
40 *457(f)* of Title 26 of the United States Code.

1 (6) Money paid by an employer in addition to salary paid under
2 paragraph (1) or (2) if paid to all employees in a class in the same
3 dollar amount, the same percentage of salary, or the same
4 percentage of the amount being distributed.

5 (7) Any other payments the board determines by plan
6 amendment to be “salary.”

7 (b) “Salary” does not mean and shall not include:

8 (1) Money paid for service that is not creditable service.

9 (2) Money paid by an employer in addition to salary paid under
10 paragraph (1) or (2) if not paid to all employees in a class in the
11 same dollar amount, the same percentage of salary, or the same
12 percentage of the amount being distributed.

13 (3) Fringe benefits provided by an employer.

14 ~~(4) Job-related expenses~~ *Expenses* paid or reimbursed by an
15 employer.

16 (5) Money paid *in exchange for the forfeiture of* unused
17 accumulated leave.

18 ~~(6) Compensatory damages or money paid to a participant in~~
19 ~~excess of salary as a compromise settlement or as severance pay~~
20 *Severance pay, including lump-sum and installment payments, or*
21 *money paid in excess of salary or wages to a member as*
22 *compensatory damages or as a compromise settlement.*

23 (7) Annuity contracts, tax-deferred retirement programs, or
24 other insurance programs, including, but not limited to, plans that
25 meet the requirements of Section 125, 401(a), 401(k), ~~or~~ 403(b),
26 457(b), or 457(f) of Title 26 of the United States Code that are
27 purchased by an employer for a participant.

28 (8) Any payments determined by the board to have been made
29 by an employer ~~for the principal purpose of enhancing a~~
30 ~~participant’s benefits under the plan~~ *to enhance a participant’s*
31 *benefits.*

32 (9) Any other payments the board determines by plan
33 amendment not to be “salary.”

34 (c) Any employer or person who knowingly or willfully reports
35 salary in a manner inconsistent with the provisions of subdivisions
36 (a) or (b) ~~shall reimburse the plan for any overpayment of benefits~~
37 ~~that occurs because of such inconsistent reporting and may be~~
38 subject to prosecution for fraud, theft, or embezzlement in
39 accordance with provisions of the Penal Code. The system may

1 establish procedures to ensure that salary reported by an employer
2 is in compliance with this section.

3 *(d) For purposes of this section, remuneration shall be*
4 *considered paid if it would be distributed to any person in the same*
5 *class of employees who meets the qualifications or requirements*
6 *specified in a collective bargaining agreement, an employment*
7 *agreement, or any other publicly available written contractual*
8 *agreement that specifies compensation as a condition of receiving*
9 *the remuneration.*

10 ~~(d)~~

11 *(e)* This section shall be deemed to have become operative on
12 July 1, 1996.

13 SEC. 36. Section 26139.5 is added to the Education Code, to
14 read:

15 26139.5. (a) “Salary,” for participants subject to the California
16 Public Employees’ Pension Reform Act of 2013, means regular,
17 recurring remuneration paid in cash by an employer to a participant
18 for creditable service performed in that position subject to coverage
19 under the Cash Balance Benefit Program in accordance with a
20 salary schedule, employment agreement, or any other publicly
21 available written contractual agreement that specifies compensation
22 based on years of training and years of experience as specified in
23 Section 45028. Salary shall include:

24 (1) Money paid for the participant’s absence from performance
25 of creditable service as approved by an employer, except as
26 provided in paragraph (5) of subdivision (b).

27 (2) Employee contributions picked up by an employer under
28 Section 414(h)(2) of Title 26 of the United States Code and Section
29 17501 of the Revenue and Taxation Code.

30 (3) Amounts deducted by an employer from the participant’s
31 salary, including deductions for participation in a deferred
32 compensation plan; deductions for the purchase of annuity
33 contracts, tax-deferred retirement plans, or other insurance
34 programs; and deductions for participation in a plan that meets the
35 requirements of Section 125, 401(a), 401(k), 403(b), 457(b) or
36 457(f) of Title 26 of the United States Code.

37 (4) Notwithstanding paragraph (10) of subdivision (b),
38 remuneration that is paid to achieve compensation parity between
39 part-time and full-time faculty of California community colleges
40 for similar work, as funded pursuant to the Budget Act.

1 (5) Notwithstanding paragraph (10) of subdivision (b),
2 remuneration that is paid based on the allocation of funds from
3 the California State Lottery Education Fund pursuant to Section
4 8880.5 of the Government Code.

5 (6) Notwithstanding paragraph (10) of subdivision (b),
6 remuneration that is paid when the number of students in the
7 classroom exceeds the contractual amount.

8 (7) Any other payments the board determines by plan
9 amendment to be “salary.”

10 (b) “Salary” does not mean and shall not include:

11 (1) Money paid for service that is not creditable service.

12 (2) Money paid by an employer in addition to salary.

13 (3) Fringe benefits provided by an employer.

14 (4) Expenses paid or reimbursed by an employer.

15 (5) Money paid in exchange for the forfeiture of unused
16 accumulated leave.

17 (6) Severance pay, including lump-sum and installment
18 payments, or money paid in excess of salary to a participant as
19 compensatory damages or as a compromise settlement.

20 (7) Annuity contracts, tax-deferred retirement programs, or
21 other insurance programs, including, but not limited to, plans that
22 meet the requirements of Section 125, 401(a), 401(k), 403(b),
23 457(b) or 457(f) of Title 26 of the United States Code that are
24 purchased by an employer for a participant.

25 (8) Any payments determined by the board to have been made
26 by an employer to enhance a participant’s benefits under the plan.

27 (9) Money paid to the member in lieu of benefits provided to
28 the participant by the employer or paid directly by the employer
29 to a third party other than the retirement system for the benefit of
30 the participant.

31 (10) Any one-time or ad hoc payments made to a member.

32 (11) Any employer-provided allowance, reimbursement, or
33 payment, including, but not limited to, one made for housing,
34 vehicle, or uniform.

35 (12) Any bonus paid in addition to compensation described in
36 subdivision (a).

37 (13) Any other payments the board determines by plan
38 amendment not to be “salary.”

39 (c) (1) Salary in any fiscal year shall not exceed 120 percent of
40 the “contribution and benefit base,” as determined under Section

1 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on
2 January 1, 2013.

3 (2) The board shall adjust the limit in paragraph (1) based on
4 changes to the Consumer Price Index for All Urban Consumers.
5 Notwithstanding paragraph (1) of subdivision (d) of Section
6 7522.10 of the Government Code, the adjustment shall be effective
7 annually on July 1, beginning July 1, 2014.

8 (3) The Legislature reserves the right to modify the requirements
9 of this subdivision with regard to all members subject to this
10 subdivision, except that the Legislature may not modify these
11 provisions in a manner that would result in a decrease in benefits
12 accrued prior to the effective date of the modification.

13 (d) Any employer or person who knowingly or willfully reports
14 salary in a manner inconsistent with the provisions of subdivisions
15 (a) or (b) may be subject to prosecution for fraud, theft, or
16 embezzlement in accordance with provisions of the Penal Code.
17 The system may establish procedures to ensure that salary reported
18 by an employer is in compliance with this section.

19 (e) For purposes of this section, remuneration shall be considered
20 paid if it would be distributed to any person in the same class of
21 employees who meets the qualifications or requirements specified
22 in a collective bargaining agreement, an employment agreement,
23 or any other publicly available written contractual agreement that
24 specifies compensation as a condition of receiving the
25 remuneration.

26 SEC. 37. Section 26503.5 of the Education Code is amended
27 to read:

28 26503.5. If a person elects, pursuant to Section 26403, to
29 participate in the Cash Balance Benefit Program, his or her
30 employer shall make contributions, as provided in Section 26503,
31 based on the salary or other compensation paid for trustee service.
32 *For a participant subject to the California Public Employees’*
33 *Pension Reform Act of 2013, other compensation paid for trustee*
34 *service is subject to the same requirements as “salary” as defined*
35 *in Section 26139.5.*

36 SEC. 38. Section 26504 of the Education Code is amended to
37 read:

38 26504. The employer may enter into a collective bargaining
39 agreement to pay a different employer contribution rate and a

1 different employee contribution rate, provided all of the following
2 conditions are met:

3 (a) The sum of the employee contributions and employer
4 contributions for each participant shall equal or exceed 8 percent
5 of salary.

6 (b) The employee contribution rate may exceed the employer
7 contribution rate but in no event shall the employer contribution
8 rate be less than 4 percent.

9 (c) *For participants subject to the California Public Employees’*
10 *Pension Reform Act of 2013, the employee contribution rate shall*
11 *not be less than the employer contribution rate.*

12 ~~(e)~~
13 (d) (1) The employee contribution rate and employer
14 contribution rate shall be the same for each participant employed
15 by the employer *who is not subject to the California Public*
16 *Employees’ Pension Reform Act of 2013.*

17 (2) *The employee contribution rate and employer contribution*
18 *rate shall be the same for each participant employed by the*
19 *employer who is subject to the California Public Employees’*
20 *Pension Reform Act of 2013, but may vary from the rates described*
21 *in paragraph (1).*

22 ~~(d)~~
23 (e) The employee contribution rate and employer contribution
24 rate shall be in one-quarter percent increments.

25 ~~(e)~~
26 (f) The employee contribution rate and employer contribution
27 rate as determined under the collective bargaining agreement shall
28 become effective on the first day of the plan year following
29 notification to the system and shall remain in effect for at least one
30 plan year. However, the employee contribution rate and the
31 employer contribution rate as determined under the collective
32 bargaining agreement may become effective as of the first day of
33 the plan year in which notice is given if it is so provided in the
34 collective bargaining agreement and if a lump-sum contribution
35 is made to the plan equal to the additional employee and employer
36 contributions, if any, that would have been required if the
37 contribution rates had been in effect on the first day of the plan
38 year. Interest shall be credited at the minimum interest rate with
39 respect to the lump-sum contribution commencing with the first
40 month after the contribution is made.

1 ~~(f)~~

2 (g) The employer has filed notice of the employee contribution
3 rate and the employer contribution rate on a form prescribed by
4 the system.

5 SEC. 39. Section 26800 of the Education Code is amended to
6 read:

7 26800. The normal retirement age for the Cash Balance Benefit
8 Program is 60 years of age, *or 62 years of age for a participant*
9 *subject to the California Public Employees' Pension Reform Act*
10 *of 2013.*

11 SEC. 40. Section 26810 of the Education Code is amended to
12 read:

13 26810. (a) A participant who is employed to perform creditable
14 service subject to coverage by the Cash Balance Benefit Program
15 while receiving an annuity under the program may voluntarily
16 terminate the annuity upon employment and make contributions
17 to the program based on salary paid by the employer for the
18 employment, provided the participant has attained ~~age 60~~ *normal*
19 *retirement age* and has been receiving a retirement annuity for at
20 least one year. The participant shall continue to be subject to
21 Section 26808.

22 (b) The participant shall request in writing within 60 days of
23 employment that the annuity be terminated. Termination of the
24 participant's annuity shall become effective on the first day of the
25 month following the month in which verification of the
26 participant's employment is received by the system from the
27 participant's employer.

28 (c) Upon voluntary termination of the annuity, the employee
29 and employer account of the participant shall be credited with
30 respective balances that reflect the actuarial equivalent of the
31 participant's retirement benefit as of the date the participant
32 terminates the annuity and the Annuitant Reserve shall be reduced
33 by the amount of the credits.

34 (d) The portion of the annuity derived from the amounts credited
35 to the employee account and employer account, as of the date the
36 participant terminates the annuity, shall be calculated using the
37 actuarial assumptions in effect on the initial retirement date using
38 the age of the participant and, if the participant elected a joint and
39 survivor option the age of the beneficiary on the current retirement
40 date.

1 (e) Upon election of a subsequent annuity, the credits in the
2 participant's employee account and employer account shall be
3 transferred to the Annuitant Reserve.

4 SEC. 41. Section 26812 of the Education Code is amended to
5 read:

6 26812. (a) A participant retired for service under this part may
7 ~~perform the activities identified in subdivision (a) or (b) of Section~~
8 ~~26113 as an employee of an employer, as an employee of a third~~
9 ~~party, or as an independent contractor within the California public~~
10 ~~school system~~ *retired participant activities*, but the participant
11 shall not make contributions to the plan *or accrue service credit*
12 *under the Defined Benefit Program based on compensation earned*
13 *from that service*. The employer shall maintain accurate records
14 of the earnings of the retired ~~member participant~~ and report those
15 earnings monthly to the system and retired ~~member participant~~.

16 (b) If a participant is retired for service under this part, the rate
17 of pay for ~~service~~ *retired participant activities* performed by that
18 ~~member as an employee of the employer, as an employee of a third~~
19 ~~party, or as an independent contractor~~ *participant* shall not be less
20 than the minimum, nor exceed ~~that the maximum~~ paid by the
21 employer to other employees performing comparable duties.

22 (c) A participant retired for service under this part shall not be
23 required to reinstate for performing ~~the activities identified in~~
24 ~~subdivision (a) or (b) of Section 26113 as an employee of an~~
25 ~~employer, as an employee of a third party, or as an independent~~
26 ~~contractor within the California public school system~~ *retired*
27 *participant activities*.

28 (d) If a participant retired for service under this part and *on or*
29 *after January 1, 2014*, is receiving an annuity under the Cash
30 Balance Benefit Program ~~is below normal retirement age~~ and earns
31 compensation for performing ~~activities identified in subdivision~~
32 ~~(a) or (b) of Section 26113 as an employee of an employer, as an~~
33 ~~employee of a third party, or as an independent contractor, within~~
34 ~~the California public school system~~ *retired participant activities*,
35 the participant's annuity shall be reduced by the amount of the
36 compensation. This reduction shall only be made for compensation
37 earned during the first 180 calendar days after a participant retired
38 for service under this part, ~~if the participant is below normal~~
39 ~~retirement age at the time the compensation is earned~~. The amount
40 of the reduction may be equal to the monthly annuity payable but

1 shall not exceed the amount of the annuity payable during the first
2 180 calendar days after a participant retired for service under this
3 part, ~~if the participant is below normal retirement age at the time~~
4 ~~the compensation is earned.~~

5 *(e) If the participant has attained normal retirement age at the*
6 *time the compensation is earned, subdivision (d) shall not apply*
7 *if the appointment has been approved by the governing body of*
8 *the employer in a public meeting, as reflected in a resolution*
9 *adopted by the governing body of the employer prior to the*
10 *performance of retired participant activities, expressing its intent*
11 *to seek an exemption from the limitation specified in subdivision*
12 *(d). Approval of the appointment may not be placed on a consent*
13 *calendar. Notwithstanding any other provision of Article 3.5*
14 *(commencing with Section 6250) of Division 7 of Title 1 of the*
15 *Government Code or any state or federal law incorporated by*
16 *subdivision (k) of Section 6254 of the Government Code, the*
17 *resolution shall be subject to disclosure by the entity adopting the*
18 *resolution and the system. The resolution shall include the*
19 *following specific information and findings:*

20 *(1) The nature of the employment.*

21 *(2) A finding that the appointment is necessary to fill a critically*
22 *needed position before 180 calendar days has passed.*

23 *(3) A finding that the participant is not ineligible for application*
24 *of this subdivision pursuant to subdivision (g).*

25 *(4) A finding that the termination of employment of the retired*
26 *participant with the employer is not the basis for the need to*
27 *acquire the services of the participant.*

28 *(f) Subdivision (e) shall not apply to a retired participant whose*
29 *termination of employment with the employer is the basis for the*
30 *need to acquire the services of the participant.*

31 *(g) Subdivision (e) shall not apply if the participant received*
32 *additional service credit pursuant to Sections 22714 or 22715 or*
33 *received from any public employer any financial inducement to*
34 *retire. For purposes of this section, "financial inducement to*
35 *retire" includes, but is not limited to, any form of compensation*
36 *or other payment that is paid directly or indirectly by a public*
37 *employer to the participant, even if not in cash, either before or*
38 *after retirement, if the participant retires for service on or before*
39 *a specific date or specific range of dates established by a public*
40 *employer on or before the date the inducement is offered. The*

1 *system shall liberally interpret this subdivision to further the*
2 *Legislature's intent to make subdivision (e) inapplicable to*
3 *participants if the participant received a financial incentive from*
4 *any public employer to retire or otherwise terminate employment*
5 *with a public employer.*

6 *(h) The superintendent, the county superintendent of schools or*
7 *the chief executive officer of a community college shall submit all*
8 *documentation required by the system to substantiate the eligibility*
9 *of the retired participant for application of subdivision (e),*
10 *including, but not limited to, the resolution adopted pursuant to*
11 *that subdivision.*

12 *(i) The documentation required by this section shall be received*
13 *by the system prior to the retired participant's performance of*
14 *retired participant activities.*

15 *(j) Within 30 calendar days of the receipt of all documentation*
16 *required by the system pursuant to this section, the system shall*
17 *inform the entity seeking application of the exemption specified in*
18 *subdivision (e) and the retired participant whether the*
19 *compensation paid to the participant will be subject to the*
20 *limitation specified in subdivision (d).*

21 SEC. 42. Section 26813 of the Education Code is amended to
22 read:

23 26813. A member retired for service under the Defined Benefit
24 Program may perform ~~the activities identified in subdivision (a)~~
25 ~~or (b) of Section 22119.5 and subdivision (a) or (b) of Section~~
26 ~~26113~~ *retired participant activities* in any one school year up to
27 the limitation specified in Sections 24214 and 24214.5 ~~as an~~
28 ~~employee of an employer, as an employee of a third party, or as~~
29 ~~an independent contractor within the California public school~~
30 ~~system~~, but the member shall not make contributions to the fund.
31 The employer shall maintain accurate records of the earnings of
32 the retired member and report those earnings monthly to the system
33 and retired member as described in Section 22461.